

MEMO ENDORSED



October 5, 2021

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Via ECF

Hon. Kenneth M. Karas
United States District Judge
United States District Court for the
Southern District of New York
300 Quarropas Street, Chambers 533
White Plains, NY 10601-4150

Re: *Ariel Dan Barkai v. Robert Nuendorf, et al.*, No. 21-CV-04060-KMK
File No: 12129.00319

Dear Judge Karas:

We represent the defendants Officer Culianos, Lt. Cummings, Jeff Wanamaker, Ray McCullagh, and George Hoehmann (collectively, the “Clarkstown Defendants”) in this matter. We write to request that this Court strike Plaintiff’s October 3, 2021 Memorandum of Law in Opposition to the Clarkstown Defendants’ Motion to Dismiss for failure to comply with this Court’s rules.

Rule II.B of this Court’s Individual Rules of Practice provides that “Memoranda of law in support of and in opposition to motions are limited to 25 pages.” On September 2, 2021, the Clarkstown Defendants filed a motion to dismiss plaintiff’s complaint. The memorandum of law was 23 pages long. On October 3, 2021, Plaintiff filed a 109-page Memorandum of Law in Opposition to Clarkstown Defendants Motion to Dismiss.¹ The Clarkstown Defendants request that this memorandum of law be stricken for failure to comply with this court’s page limits. While pro se parties are often granted greater leeway on procedural issues, they are still required to follow the court’s rules. *See Lue v. JPMorgan Chase & Co.*, 768 Fed. Appx. 7, *8-9 (2d Cir. Apr. 24, 2019) (affirming district court order striking pro se plaintiff’s 198-page opposition to defendants’ 25-page memorandum and imposing page limits); *Vallejo v. Four Seasons Solar Prods.*, 2011 U.S. Dist. LEXIS 32192, *9-10, 2011 WL 1153812 (E.D.N.Y. Mar. 28, 2011) (striking pro se plaintiff’s 75-page opposition papers filed after deadline set for opposition); *Hamlett v. Srivastava*, 496 F. Supp. 2d 325, 328 (S.D.N.Y. 2007) (latitude afforded pro se litigant did not “excuse him from meeting deadlines imposed by the Court to file opposition.”). There is no need for 109 pages to

¹ The Notice of Electronic Filing indicates that Plaintiff’s Opposition was filed on October 3, 2021 and entered on the docket on October 4, 2021.



respond to the Clarkstown Defendants' 23-page memorandum of law.

Given Plaintiff's *pro se* status, the Clarkstown Defendants request that this Court (1) strike the Plaintiff's October 3, 2021 Opposition, (2) instruct Plaintiff to file an opposition memorandum which complies with this Court's rules, and (3) grant the Clarkstown Defendants two weeks to file a reply following Plaintiff's corrected submission.

Respectfully submitted,

Wilson Elser Moskowitz Edelman & Dicker LLP

A handwritten signature in black ink, appearing to read 'Eliza M. Scheibel'.

Eliza M. Scheibel

cc: All parties via ECF

Application to strike Plaintiff's 109 page memorandum of law in opposition to Defendants' Motion to Dismiss is granted. Plaintiff is to submit a memorandum no longer than 25 pages by 11/15/21. While Plaintiff is *pro se*, he did not ask for permission to file an oversized opposition, let alone one that is 84 pages beyond the normal limit. Defense reply to the newly-filed opposition will be due 12/5/21. Defense counsel is to mail a copy of this memo endorsement to Plaintiff and certify this was done in a filing by 10/15/21.

So Ordered.

A handwritten signature in black ink, likely of the court clerk, with the date '10/13/21' written below it.

10/13/21